

REMARKS

Summary Of Office Action

Claims 1-19 are pending in this application.

Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lupien et al. U.S. Patent 6,012,046 (hereinafter "Lupien") in view of Garman U.S. Patent 5,819,237 (hereinafter "Garman").

The Examiner also made of record Liddy et al. U.S. Patent 6,026,388 (hereinafter "Liddy") and Kohorn U.S. Patent 5,508,731 (hereinafter "Kohorn").

Reply To Office Action

The Examiner's rejections and objections are respectfully traversed.

Applicants' invention, as defined by independent claims 1, 10, and 19, are, generally speaking, directed to receiving a first order to buy, receiving a second order to sell said derivative financial instrument, setting a market price based on the received first and second orders, and executing a trade at the set market price. The derivative financial instrument that selectively represents a movie or a movie talent in an entertainment industry. The movie corresponds to a stock and the movie talent corresponds to a bond for trading over the Internet.

Buy order and sell orders are matched by a server computer. In response to an imbalance in the matching of the buy and sell orders (e.g., there are more buy orders than sell order (or vice versa)) a virtual specialist program executed by the server computer generates a market price. The virtual specialist may also participate in the market as a trader in order to minimize price volatility.

I. Lupien

In rejecting applicants' claimed invention, the Examiner principally relies on Lupien. Generally speaking, Lupien is directed towards an automated crossing network (also known as a matching system) for trading instruments, and in particular, a continuous crossing network that matches buy and sell orders. Lupien, Field Of Invention.

Lupien discusses a user setting up a satisfaction density profile for a bid or an offer. A satisfaction density profile indicates how satisfied a user would be if a bid or offer were hit or lifted at pre-determined market prices. A satisfaction density profile may be represented as a contour plot on a two-dimensional grid. Price is represented on the vertical axis and quantity is represented on the horizontal axis. Satisfaction density values for each price and quantity can be a number between and including zero and one. Zero represents no satisfaction (i.e., the user will under no

circumstances trade that quantity at that price) and one represents total satisfaction. Lupien, column 8, lines 16-26.

After the user sets up the satisfaction density profile for a particular bid or offer, the user transmits the satisfaction density profile to a central matching controller ("CMC"). The CMC anonymously matches the bid or offer with other orders (i.e., buy or sell) based on the satisfaction density profile for the bid or offer transmitted by the user, satisfaction density profiles for other orders transmitted by other users, and the market price at which the securities reflected in the satisfaction density profiles are currently trading. Lupien, column 4, lines 24-45.

In rejecting applicants' invention, the Examiner contends, among other things, that Lupien shows or suggests "setting a market price based on the received first and second orders" (claim 1; see similar features in claims 10 and 19). To support this contention, the Examiner cites column 7, lines 15-53, of Lupien. Applicants respectfully submit that this portion of Lupien is merely directed towards describing how a user sets up a satisfaction density profile (e.g., setting the type of transaction, time-in-force, profile dimensions). There is no showing or suggestion in this portion of Lupien, or elsewhere in Lupien, of setting a market price based on a received first bid and a second order.

Arguably at best, the CMC of Lupien matches buy and sell orders based on satisfaction density profiles. Applicants respectfully submit, however, that this is not the same as setting a market price based on the buy and sell orders. The CMC determines how satisfied a user would be if his transaction were processed at *current market prices*.

Accordingly, for at least the reason that Lupien does not show or suggest "setting a market price based on ... received first order and second orders" (claim 1; see similar features in claims 10 and 19), applicants respectfully submit that claims 1, 10, and 19 are in condition for allowance.

## II. Garman, Liddy, and Kohorn

The Examiner admits that Lupien fails to show or suggest executing a trade. To make up for this deficiency, the Examiner cited Garman.

Applicants respectfully submit that the Examiner's rejection of claims 1, 10, and 19 in view of Lupien and Garman is *moot* at least for the reason, as shown above, that Lupien does not show or suggest setting a market price based on received first and second orders.

Additionally, applicants respectfully submit that Liddy and Kohorn, made of record by the Examiner but not principally relied upon, also do not show or suggest setting a market price based on received first and second orders.


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Accordingly, independent claims 1, 10, and 19 are in condition for allowance for at least the reason that setting a market price based on received first and second orders is not shown or suggested by the prior art.

Conclusion

In view of the foregoing, independent claims 1, 10, and 19 are in condition for allowance. Dependent claims 2-9 and 11-18, which respectively depend from claims 1 and 10, are therefore also in condition for allowance. This application is accordingly in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,

  
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